IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.4491 OF 2006
IN
REVIEW PETITION (L) NO.56 OF 2006
IN
APPEAL (L) NO.624 OF 2004

Jayprakash Khanchand Pamnani & Ors. .. Petitioners
V/s
Arjandas Teckchand Kashyap & Ors. .. Respondents

Mr.A.L.Gore for the Applicants/Petitioners.

Mr.Sanjay Jain with Ms.Tasneem A.Saria i/by M/s.S.K.Srivastava & Co. for Respondent No.1.

CORAM : DR.S.RADHAKRISHNAN, & J.P.DEVADHAR, JJ.

DATE : 5th October, 2007.

P.C.:

1. Heard the learned Counsel for the Petitioners and the learned Counsel for Respondent No.1. By this Notice of Motion, the Petitioners are seeking condonation of 749 days delay caused in filing the Review Petition. So far as Review Petition is concerned, the Petitioners are seeking review of the order of this Court dated 1.11.2004 which was passed by consent of all the learned Counsel for the parties.

2. We have perused the affidavit in support of the Notice of Motion dated 15.12.2006, additional affidavits dated 24.1.2007, 17.4.2007 and the affidavit in reply dated 15.2.2007. In paragraph No.8 of the aforesaid affidavit in support dated 15.12.2006 it is stated by the Petitioners that they had applied for the annual accounts of the Society in the year 2005 itself but that was refused by the Society. Thereafter in paragraph

No.15 of the same affidavit dated 15.12.2006 it is mentioned that the Petitioners had finally made an application under the Right to Information Act on 9.5.2006 and the copies of the audited balance sheet of the Society were obtained on 15.5.2006.

3. In the aforesaid affidavits filed by the Petitioners including the affidavit in support of the notice of motion which was sworn on 15.12.2006, there is absolutely no explanation as to the delay caused from 1.11.2004 till 9.5.2006 excepting the bald statement that the application was made to the society for annual accounts and an application was made to the Court Receiver. It should be noted here that even after receiving the audited balance sheet of the Soceity on 15.5.2006 for a further period of seven months till the filing of the Review Petition on 15.12.2006, no action was taken by the Petitioners. Here also, there is absolutely no explanation.

4. The learned Counsel for the Petitioners relied upon the judgment of the Hon'ble Supreme Court in the case of **State of Haryana V/s.Chandra Mani & Ors. - 1996 II CLR 504**. We are not asking for explanation of delay for every day of delay. In the above there is a delay of 749 days and there is no proper explanation at all. This is a clear case of negligence and inaction. No sufficient cause is shown. Hence the above judgment will not assist the Petitioners.

5. All the affidavits filed by the Petitioners are totally vague and unsatisfactory. The delay of 749 days is not properly explained. We are not inclined to condone the delay. No case is made out for condonation of delay. Hence, the Notice of Motion No.4491 of 2006 stands dismissed.

6. In view of dismissal of the Notice of Motion No.4491/2006 nothing further survives in the Review Petition. Hence, Review Petition (L) No.56/2006 also stands dismissed.

(J.P.DEVADHAR, J.) **(DR.S.RADHAKRISHNAN, J.)**